

## CLAIMS: BERING SEA

*Convention signed at Washington February 8, 1896, with appendix  
Senate advice and consent to ratification, with amendments, April 15,  
1896*<sup>1</sup>

*Ratified by the President of the United States, with amendments,  
April 23, 1896*<sup>1</sup>

*Ratified by the United Kingdom May 14, 1896*

*Ratifications exchanged at London June 3, 1896*

*Entered into force June 3, 1896*

*Proclaimed by the President of the United States June 11, 1896*

*Terminated December 17, 1897.*<sup>2</sup>

29 Stat. 844; Treaty Series 144

Whereas by a Treaty between the United States of America and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, signed at Washington on February 29, 1892,<sup>3</sup> the questions which had arisen between their respective Governments concerning the jurisdictional rights of the United States in the waters of Behring Sea, and concerning also the preservation of the fur-seal in, or habitually resorting to, the said Sea, and the rights of the citizens and subjects of either country as regards the taking of fur-seal in, or habitually resorting to, the said waters, were submitted to a Tribunal of Arbitration as therein constituted;

<sup>1</sup> The U.S. amendments were as follows:

Article II, second paragraph, after "Commission" delete "may" and insert "shall also"; after "provided" delete "it shall determine in any case that the interests of justice so require—due regard being had to the necessary expense and to all other considerations involved" and insert in lieu thereof "either Commissioner shall so request if he shall be of opinion that the interests of justice shall so require, for reasons to be recorded on the minutes."

Article III, second paragraph, after "found" delete "in the award of" and insert "by"; after "concerning the same; and" delete "it shall be open to"; after "the United States" delete "if it shall think fit" and insert "shall have the right".

Article III, third paragraph, after "The said Commission" delete "shall have power to compel the testimony of witnesses"; after "San Francisco" delete "by application to the Circuit Court of the United States for the Ninth Circuit which said Court shall make all orders and issue all processes necessary and appropriate to that end; and, when sitting at Victoria" and insert "or Victoria"; after "for the procurement" strike out "and" and insert "or".

The text printed herein is the amended text as proclaimed by the President.

<sup>2</sup> Date of rendition of award of \$473,151.26 against the United States (see Moore, *International Arbitrations*, vol. II, p. 2123).

<sup>3</sup> TS 140-1, *ante*, p. 220.

And whereas the High Contracting Parties having found themselves unable to agree upon a reference which should include the question of the liability of each for the injuries alleged to have been sustained by the other, or by its citizens, in connection with the claims presented and urged by it, did, by Article VIII of the said Treaty, agree that either party might submit to the Arbitrators any questions of fact involved in said claims and ask for a finding thereon, the question of the liability of either Government on the facts found to be the subject of further negotiation;

And whereas the Agent of Great Britain did, in accordance with the provisions of said Article VIII, submit to the Tribunal of Arbitration certain findings of fact which were agreed to as proved by the Agent of the United States, and the Arbitrators did unanimously find the facts so set forth to be true, as appears by the Award of the Tribunal rendered on the 15th day of August, 1893;

And whereas in view of the said findings of fact and of the decision of the Tribunal of Arbitration concerning the jurisdictional rights of the United States in Behring Sea and the right of protection or property of the United States in the fur-seals frequenting the islands of the United States in Behring Sea, the Government of the United States is desirous that in so far as its liability is not already fixed and determined by the findings of fact and the decision of said Tribunal of Arbitration, the question of such liability should be definitely and fully settled and determined, and compensation made, for any injuries for which, in the contemplation of the Treaty aforesaid, and the award and findings of the Tribunal of Arbitration compensation may be due to Great Britain from the United States;

And whereas it is claimed by Great Britain, though not admitted by the United States, that prior to the said award certain other claims against the United States accrued in favor of Great Britain on account of seizures of or interference with the following named British sealing vessels,—to wit, the “Wanderer,” the “Winifred,” the “Henrietta” and the “Oscar and Hattie,” and it is for the mutual interest and convenience of both the High Contracting Parties that the liability of the United States, if any, and the amount of compensation to be paid, if any, in respect of such claims and each of them should also be determined under the provisions of this Convention—all claims by Great Britain under Article V of the *Modus Vivendi* of April 18, 1892<sup>4</sup> for the abstention from fishing of British sealers during the pendency of said arbitration having been definitely waived before the Tribunal of Arbitration:

The United States of America and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, to the end of concluding a Convention for that purpose, have appointed as their respective Plenipotentiaries:

The President of the United States, the Honorable Richard Olney, Secretary of State; and Her Majesty the Queen of the United Kingdom of Great Britain and Ireland, the Right Honorable Sir Julian Pauncefoot,

<sup>4</sup> TS 140-3, *ante*, p. 226.

G.C.B., G.C.M.G., Her Majesty's Ambassador Extraordinary and Plenipotentiary to the United States;

Who, after having communicated to each other their respective full powers, which were found in due and proper form, have agreed to and concluded the following Articles:

#### ARTICLE I

The High Contracting Parties agree that all claims on account of injuries sustained by persons in whose behalf Great Britain is entitled to claim compensation from the United States and arising by virtue of the Treaty aforesaid, the award and the findings of the said Tribunal of Arbitration, as also the additional claims specified in the 5th paragraph of the preamble hereto, shall be referred to two Commissioners, one of whom shall be appointed by the President of the United States, and the other by Her Britannic Majesty, and each of whom shall be learned in the law. Appended to this Convention is a list of the claims intended to be referred.

#### ARTICLE II

The two Commissioners shall meet at Victoria, in the Province of British Columbia, Canada, as soon as practicable after the exchange of the ratifications of this Convention, and, after taking an oath that they will fairly and impartially investigate the claims referred to them and render a just decision thereon, they shall proceed jointly to the discharge of their duties.

The Commission shall also sit at San Francisco, California, as well as Victoria, provided either Commissioner shall so request if he shall be of opinion that the interests of justice shall so require, for reasons to be recorded on the minutes.

#### ARTICLE III

The said Commissioners shall determine the liability of the United States, if any, in respect of each claim and assess the amount of compensation, if any, to be paid on account thereof—so far as they shall be able to agree thereon—and their decision shall be accepted by the two Governments as final.

They shall be authorized to hear and examine, on oath or affirmation, which each of said Commissioners is hereby empowered to administer or receive every question of fact not found by the Tribunal of Arbitration, and to receive all suitable authentic testimony concerning the same; and the Government of the United States shall have the right to raise the question of its liability before the Commissioners in any case where it shall be proved that the vessel was wholly or in part the actual property of a citizen of the United States.

The said Commission, when sitting at San Francisco or Victoria, shall have and exercise all such powers for the procurement or enforcement of testimony as may hereafter be provided by appropriate legislation.

## ARTICLE IV

The Commissioners may appoint a Secretary and a clerk or clerks to assist them in the transaction of the business of the Commission.

## ARTICLE V

In the cases, if any, in which the Commissioners shall fail to agree, they shall transmit to each Government a joint report stating in detail the points on which they differ, and the grounds on which their opinions have been formed; and any such difference shall be referred for final adjustment to an Umpire to be appointed by the two Governments jointly, or, in case of disagreement, to be nominated by the President of the Swiss Confederation at the request of the two Governments.

## ARTICLE VI

In case of the death, or incapacity to serve, from sickness or any other cause, of either of the two Commissioners, or of the Umpire, if any, his place shall be filled in the manner herein provided for the original appointment.

## ARTICLE VII

Each Government shall provide for the remuneration of the Commissioner appointed by it.

The remuneration of the Umpire, if one should be appointed, and all contingent and incidental expenses of the Commission, or of the Umpire, shall be defrayed by the two Governments in equal moieties.

## ARTICLE VIII

The amount awarded to Great Britain under this Convention on account of any claimant shall be paid by the Government of the United States to the Government of Her Britannic Majesty within six months after the amount thereof shall have been finally ascertained.

## ARTICLE IX

The present Convention shall be duly ratified by the President of the United States of America, by and with the advice and consent of the Senate thereof, and by Her Britannic Majesty; and the ratifications shall be exchanged either at Washington or at London within six months from the date hereof, or earlier, if possible.

In faith whereof, we, the respective Plenipotentiaries, have signed this Convention and have hereunto affixed our seals.

Done in duplicate at Washington, the eighth day of February, 1896.

|                   |        |
|-------------------|--------|
| RICHARD OLNEY     | [SEAL] |
| JULIAN PAUNCEFOTE | [SEAL] |

## APPENDIX OF CLAIMS

*Claims submitted to the Tribunal of Arbitration at Paris*

| Name of vessel     | Date of seizure | Approximate distance from land when seized                          | United States vessel making seizure |
|--------------------|-----------------|---|-------------------------------------|
| Carolina.....      | Aug. 1, 1886    | 75 miles.....   | Corwin                              |
| Thornton.....      | Aug. 1, 1886    | 70 miles.....   | Corwin                              |
| Onward.....        | Aug. 2, 1886    | 115 miles.....  | Corwin                              |
| Favorite.....      | Aug. 2, 1886    | Warned by Corwin in about same position as Onward                   |                                     |
| Anna Beck.....     | July 2, 1887    | 66 miles.....   | Rush                                |
| W. P. Sayward..... | July 9, 1887    | 59 miles.....   | Rush                                |
| Dolphin.....       | July 12, 1887   | 40 miles.....   | Rush                                |
| Grace.....         | July 17, 1887   | 96 miles.....   | Rush                                |
| Alfred Adams.....  | Aug. 10, 1887   | 62 miles.....   | Rush                                |
| Ada.....           | Aug. 25, 1887   | 15 miles.....   | Bear                                |
| Triumph.....       | Aug. 4, 1887    | Warned by Rush not to enter Behring Sea                             |                                     |
| Juanita.....       | July 31, 1889   | 66 miles.....   | Rush                                |
| Pathfinder.....    | July 29, 1889   | 50 miles.....   | Rush                                |
| Triumph.....       | July 11, 1889   | Ordered out of Behring Sea by Rush—Query as to position when warned |                                     |
| Black Diamond..... | July 11, 1889   | 35 miles.....   | Rush                                |
| Lily.....          | Aug. 6, 1889    | 66 miles.....   | Rush                                |
| Ariel.....         | July 30, 1889   | Ordered out of Behring Sea by Rush                                  |                                     |
| Kate.....          | Aug. 13, 1889   | do.....   | Rush                                |
| Minnie.....        | July 15, 1889   | 65 miles.....   | Rush                                |
| Pathfinder.....    | Mar. 27, 1890   | Seized in Neah Bay.....   | Corwin                              |

Personal Claims..... 1886

Personal Claims..... 1887

Costs in Sayward Case.

*Additional Claims*

Wanderer..... 1887-89

Winifred..... 1891

Henrietta..... 1892

Oscar and Hattie..... 1892